

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

YUSUFI BURTON MIAL BEY,)	
)	
Petitioner,)	
)	
v.)	1:18CV773
)	
ERIK A. HOOKS,)	
)	
Respondent.)	

ORDER

The Order and Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on September 14, 2018, was served on the parties in this action. Petitioner objected to the Recommendation. (Docs. 4, 5.)

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a *de novo* determination, which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that this action be construed as a habeas petition under 28 U.S.C. § 2254 and dismissed *sua sponte* without prejudice to Petitioner filing a new petition which corrects the defects of the current Petition. The new petition must be accompanied by either the five dollar filing fee or a

current application to proceed *in forma pauperis*. A judgment dismissing this action will be entered contemporaneously with this Order. Finding neither a substantial issue for appeal concerning the denial of a constitutional right affecting the conviction nor a debatable procedural ruling, a certificate of appealability is not issued.

/s/ Thomas D. Schroeder
United States District Judge

October 24, 2018